IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

-

WRIT PETITION NO : 15805 of 2002

Between:

K. Kotaiah, S/o. Venkaiah
R/o Narasarao pet, Guntur District

..... PETITIONER

AND

1. The Principal Secretary to Government,
   State of Andhra Pradesh, Higher Education Department,
   Secretariat, Saifabad, Hyderabad.
2. The Commissioner and Director of Collegiate
   Education, Anhdra Pradesh, Hyderabad.
3. The Correspondent,
   N.B.T. & N.V.C. College, Narasaraopet,

Guntur District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate writ or order or direction more particularly one in the nature of Writ of Mandamus declaring as illegal, arbitrary and in violation of principals of natural justice the proceedings Rc. No. 1245/UGC-PF-3/2001 dated 05-08-2002 issued by the 2nd respondent and issue consequential direction to the Respondents that the petitioner is entitled to U.G.C. Scale of Pay as he fulfilled the conditions in G.O.Ms. No. 491 dated 16-11-1984.

Counsel for the Petitioner : MR.D.V.SITARAMA MURTHY

Counsel for the Respondent Nos.1&2: G.P. FOR HIGHER EDUCATION.

Counsel for the Respondent No.3: None appeared.

The Court made the following :

ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the proceedings Rc.No.1245/UGC-PF-3/2001 dated 05.08.2002 issued by the second respondent as arbitrary, illegal and issue a consequential direction to the respondents to pay U.G.C. Scales to the petitioner, since he fulfilled the conditions in G.O.Ms.No.491 dated 16.11.1984.

2. The petitioner was initially appointed as a Librarian with B.L.Sc. qualification in the year 1985. Thereafter, in the year 1993 he obtained M.L.Sc. post graduation degree in Library Science. By way of G.O.Ms.No.159 Education (UE.2) Department, dated 30.06.1990, Government of Andhra Pradesh prescribed the pass of National Eligibility Test (NET) or State Level Eligibility Test (SLET) as compulsory for the purpose of appointment to the post of a Lecturer. In this case, admittedly the post of Librarian with M.L.Sc. is equivalent to that of a Lecturer. While so, the petitioner's representation was considered and he was shifted from State scales to the U.G.C. scales. Thereafter, it was found that giving U.G.C. scales to the petitioner was illegal, since there was no specific orders from the Government to pay the petitioner in the revised U.G.C. pay scales of 1986. Therefore, by the impugned order dated 05.08.2002, the pay fixation, which was ordered in the revised U.G.C. pay scales, 1986 was cancelled and sought to recover the excess amount paid to the petitioner and regulate his pay in the State pay scales.

3. According to the petitioner, though he obtained M.L.Sc. in the year 1993 and

appointed as a regular Lecturer, since his services were confirmed in the post of Librarian with B.L.Sc. qualification even prior to G.O.Ms.No.159 Education (UE.2) Department, dated 30.06.1990, there is no necessity for him to appear for the NET/SLET as contemplated under the said G.O. In fact, earlier the respondents have considered his case and put him in the U.G.C. scales with effect from 26.05.1993 (i.e. U.G.C. scales of 1986). As this was found to be irregular by the Authorities, they issued the impugned proceedings.

4. The learned Counsel appearing for the petitioner submits that such a course of action is not available to be adopted by the respondents, since all the persons, who were appointed prior to the issuance of G.O.Ms.No.159 dated 30.06.1990, are all entitled for being continued as Lecturers and they need not pass the NET/SLET examination as prescribed therein.

5. The learned Counsel appearing for the petitioner further submits that in the year 1993 when the petitioner was appointed as a full fledged Librarian with M.L.Sc. qualification and it was not a fresh recruitment or appointment and as his appointment, which was made in the year 1985, was already confirmed, it must be deemed that he was already in service and he need not pass the NET or SLET examination and as such the impugned order passed by the respondents is arbitrary and illegal.

6. The learned Counsel for the petitioner placed before this Court the proceedings of the Commissioner of Collegiate Education, Andhra Pradesh, Hyderabad in Rc.No. 2801/UGC.PF.1.2001, dated 27.03.2004, wherein the Government of Andhra Pradesh after considering the representations received from various categories, directed all the categories of employees who are regularly recruited in the Aided Degree Colleges and who are on duty as on 01.01.1986 be exempted from passing the National Eligibility Test/State Level Eligibility Test and they may be allowed University Grants Commission pay scales. The monetary benefit by virtue of the

above exemption shall be only from the date of issue of the G.O.

7. The learned Counsel for the petitioner submits that in view of the present G.O.Ms.No.11 dated 20.02.2004, the petitioner is entitled for being put on the University Grants Commission pay scales. But, since the G.O. says that the monetary benefits would be given only from the date of issuance of the Order, the recovery as such will not be stopped as contemplated under the impugned proceedings.

8. Be that as it may, without expressing any opinion on merits, the respondents are directed to reconsider the case of the petitioner in the light of the G.O.Ms.No.11 dated 20.02.2004 and pass appropriate orders within a period of three months from the date of receipt of a copy of this Order. However, till a decision is taken in this regard, the recovery sought to be effected in the impugned order may not be given effect to.

9. The writ petition is accordingly disposed of. No order as to costs.

SD/-B.V.S.SAI PRASAD

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Principal Secretary to Government,
   State of Andhra Pradesh, Higher Education Department,
   Secretariat, Saifabad, Hyderabad.
2. The Commissioner and Director of Collegiate Education,

Anhdra Pradesh, Hyderabad.

3. The Correspondent, N.B.T. & N.V.C. College, Narasaraopet,

Guntur District.

4. Two C.Cs. to the Government Pleader for Higher Education,

   High Court Buildings, Hyderabad. (O.U.T.)

5. Two C.D. copies.

BRD

High Court

DATED 31/12/2004

ORDER

W.P.NO.15805/2002

DISPOSING OF THE W.P.

WITHOUT COSTS